

judicial independence, the majority wishes to further free the judiciary from this restraint.

In this respect I fear the majority has equated freedom with license. We simply wish to move toward the direction of moderation.

The other matter I intend to mention in these remarks also bears on our concern that the constitution itself should provide for a republican form of government in character. I am sure we all agree that a basic tenet of good government is responsiveness to the needs of the people. This clearly means that a constitution must be general in nature, thus allowing a substantial degree of flexibility as time and conditions change. We are not for generalities per se in a constitution, but neither do we wish to see too many absolutes with respect to possible modification in organization and administration of government.

Here, fellow delegates, is where some proponents of the commission draft with a parochial view I submit have departed from preferential constitutional draftsmanship. In too many situations they have become absolutists. Here are some examples.

While we approve of a four-tier court system for Maryland, we do not believe that forever and all time these will be the only courts needed by the citizens of this state. We therefore wish to remove this nonflexible and final language and allow future creation of courts to the legislative process.

Likewise we see no valid reason for constitutionally destroying the office of register of wills. In many localities these individuals perform vital services and their elimination will place undue hardship on residents in the areas affected.

Let's leave some flexibility in the administration of justice by allowing at least a degree of discretion with the lawmakers of the state.

As you all know from our printed report, we are not calling for the general retention of these offices but we do believe that in those cases where they are needed we should not have to return to either that difficult and generally unsatisfactory method of constitutional amendment or throw the problem in the lap of local government.

Ladies and gentlemen, as the Committee on the Judicial Branch is called upon to offer improvements in the already sound

state judicial system and to analyze and criticize constructively the commission draft, so we call upon you to improve the generally sound recommendations of the Majority Report, especially with respect to allowing the people some say in who will judge them.

With respect to allowing room for modification in judicial organization and administration, we ask only your careful consideration and logical application of often stated sound principles of government.

Fellow delegates, the Committee on the Judicial Branch of the Commission was composed entirely of lawyers. The majority of this body's Committee on the Judicial Branch consists of practically all lawyers. The minority is concerned that we may wind up accepting a judicial article written by lawyers and judges for lawyers and judges rather than by the people and for the people.

As noted in my remarks, I feel that the majority members mistakenly are of the opinion that they are presenting a progressive stand as well-intentioned as they may be, whereas in fact they would have us return to the days of yore when aristocratic judges stood aloof from the masses. We must not forget it is the masses, the people you will seek to serve with this new constitution.

Thank you.

THE CHAIRMAN: Are there any questions of the minority spokesman with respect to the general presentation? If not, we will proceed with consideration of the first portion of the article dealing with court structure. This embraces 5.01 to 5.11.

The Chair recognizes Delegate Mudd, Chairman of the Committee for presentation of the Committee's recommendation with respect to sections 5.01 to 5.11.

DELEGATE MUDD: Mr. Chairman, at this time would it be appropriate for the Chairman of the Committee to ask unanimous consent to make two small amendments in our Committee Recommendation?

THE CHAIRMAN: Dealing with this portion?

DELEGATE MUDD: Yes, one would deal with section 5.11 on page 4 in line 2. All we ask is to insert following the comma after "arrest", the word "bail".

THE CHAIRMAN: Which line?

DELEGATE MUDD: Line 2, page 4 following the comma after the word "arrest" insert the word "bail".